

**REMARKS**

Claims 1-39 remain pending in the application.

The Applicants respectfully request the Examiner to reconsider earlier rejections in light of the following remarks. No new issues are raised nor is further search required as a result of the changes made herein. Entry of the Amendment is respectfully requested.

**Claims 1-39 over Aether**

In the Office Action, claims 1-39 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Aether Technologies Aether Technologies: Enterprise Data Wireless Center ("Aether"). The Applicants respectfully traverse the rejection.

The opening paragraph of the rejection of claims 1-39 refers to Aether Technologies document Enterprise Data Wireless Center with a print date of February 1999 (See Office Action, page 2). The body of the rejection and statements about the previously submitted Affidavit refer to AIM.net Architecture 1.1 with a print date of April 1999 (See Office Action, page 2-9). As is clear from the different print dates, the document Enterprise Data Wireless Center is a distinct document from document AIM.net Architecture 1.1. Since the body of the rejection and the Examiner's arguments appear directed to the alleged unsatisfactory language in the previously submitted Affidavit are directed to document AIM.net Architecture 1.1 ("AIM"), the Applicants are herein responding to the rejection of claims 1-39 as allegedly being anticipated by AIM.

The Examiner indicated the Amendment filed June 10, 2005 did not have an Affidavit attached. Applicants herein re-submit a new Affidavit supporting the Applicants' previous contention that the AIM.net Architecture Version 1.1 document was **not** published or available to the public before or on the filing date of the subject application (as supported by the statement on page 6 of the document itself).

Thus, the AIM document was **not** "published" for public disclosure and does not qualify as prior art under 35 U.S.C. § 102(b). Because this

rejection is not based on prior art, it cannot properly stand. The Applicants respectfully request the rejection of claims 1-39 be withdrawn.

**Conclusion**

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

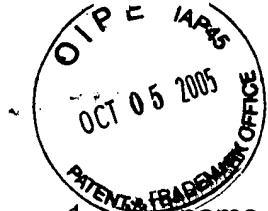
Respectfully submitted,



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William H. Bollman  
Reg. No. 36,457

**Manelli Denison & Selter PLLC**  
2000 M Street, NW  
Suite 700  
Washington, DC 20036-3307  
TEL. (202) 261-1020  
FAX. (202) 887-0336  
WHB/df



## AFFIDAVIT

1. My name is Bob Bialozynski, and I was employed by Aether Technologies on or about December 20, 2000.

2. Aether Technologies' confidential document entitled AIM.net Architecture Version 1.1, was an internal company document as of December 20, 2000, not intended to be viewed by persons outside of Aether Technologies. The document itself so states on page 6. To the best of my knowledge, AIM.net Architecture Version 1.1 was not published and not available to the public on or before December 20, 2000.

3. I declare under penalty of perjury that the foregoing is true and correct.

Robert M. Bialozynski

Signature

Director of Engineering

Title

6/27/2005

Date